

16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993). Since Respondent lacks authority in the State of New York to handle controlled substances, he is not entitled to a DEA registration in that state.

While, Respondent argues that many untrue statements were made by the Board in revoking his license to practice medicine, he does not dispute that he is currently not authorized to handle controlled substances in the State of New York. Under the circumstances, Judge Randall properly granted the Government's Motion for Summary Disposition. It is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Phillip E. Kirk, M.D.*, 48 FR 32,887 (1983) *aff'd sub nom Kirk V. Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *United States v. Consolidated Mines & Smelting Co.*, 44 F.2d 432 (9th Cir. 1971).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.R.F. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB4921210, previously issued to Robert M. Binenfeld, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration be, and they hereby are denied. This order is effective November 19, 1997.

Dated: October 10, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

[FR Doc. 97-27638 Filed 10-17-97; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Benjamin R. Borja, D.M.D.; Revocation of Registration**

On June 23, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Benjamin R. Borja, D.M.D., of North Hills, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AB8143024, under 21 U.S.C. 824(a)(3),

and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. Borja that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Borja on June 30, 1997. No request for a hearing or any other reply was received by the DEA from Dr. Borja or anyone purporting to represent him in his matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Borja is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on March 22, 1996, the Board of Dental Examiners, Department of Consumer Affairs, State of California issued a Default Decision and Order revoking Dr. Borja's dental license effective May 1, 1996, based upon a finding that Dr. Borja engaged in unprofessional conduct, incompetence, gross negligence, and/or repeated acts of negligence in his treatment of a patient. The Acting Deputy Administrator finds that in light of the fact that Dr. Borja is not currently licensed to practice medicine in the State of California, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Dr. Borja is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. Borja is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the

authority vested in him by 1 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB8143024, previously issued to Benjamin R. Borja, D.M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective November 19, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

Dated: October 9, 1997.

[FR Doc. 97-27639 Filed 10-17-97; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### **Submission for OMB Review; Comment Request**

October 14, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5096 ext. 143) or by E-Mail to [OMalley-Theresa@dol.gov](mailto:OMalley-Theresa@dol.gov). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday-Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;